

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 80)
9 VAC 5 CHAPTER 80.

PERMITS FOR STATIONARY SOURCES.

PART I.

Permits for New and Modified Sources.

PART II.

~~Operating Permits~~ Permit Procedures.

ARTICLE 6.

Permits for New and Modified Stationary Sources.

~~9 VAC 5-80-10. Permits new and modified stationary sources.~~

9 VAC 5-80-1100. A. Applicability.

A.—1. Except as provided in subsection ~~A-3~~ C of this section, the provisions of this ~~section~~ article apply to the construction, reconstruction, relocation or modification of any stationary source.

B.—2. The provisions of this ~~section~~ article apply throughout the Commonwealth of Virginia.

C.—3. The provisions of this ~~section~~ article do not apply to any ~~facility exempted by 9 VAC 5-80-11~~ stationary source, emissions unit or facility that is exempt under the provisions of 9 VAC 5-80-1320. Exemption from the requirement to obtain a permit under this ~~section~~ article shall not relieve any owner of the responsibility to comply with any other applicable provisions of ~~these regulations~~ of the board or any other applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction. Any ~~facility~~ stationary source, emissions unit or facility which is exempt from the provisions of this ~~section~~ article based on the criteria in ~~9 VAC 5-80-11~~ 9 VAC 5-80-1320 but which exceeds the applicability thresholds for any applicable emission standard in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) if it were an existing source or any applicable standard of performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) shall be subject to the more restrictive of the provisions of either the emission standard in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) or the standard of

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performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.).

~~4. Where a source is constructed or modified in contemporaneous increments which individually are not subject to approval under this section and which are not part of a program of construction or modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section. An incremental change is contemporaneous with the particular change only if it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.~~

D. The fugitive emissions of a stationary source shall not be included in determining whether it is subject to this article. The provisions of this article do not apply to a stationary source or modification that would be subject to this article only if fugitive emissions, to the extent quantifiable, are considered in calculating the actual emissions of the source or net emissions increase.

E. An affected facility subject to Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 shall not be exempt from the provisions of this article, except where the affected facility is exempt under subsection C of this section and:

1. The affected facility would be subject only to recordkeeping or reporting requirements or both under Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50; or

2. The affected facility is constructed, reconstructed or modified at an existing stationary source which has a current permit for similar affected facilities subject to the provisions of Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.

F. A boiler, incinerator or industrial furnace as defined in 9 VAC 20-60-10 and subject to 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.) shall not be exempt from the provisions of this article.

G. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area

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of a source which, except for the pattern of ownership or development, would otherwise require a permit.

H. No provision of this article shall be construed as exempting any stationary source or emissions unit from the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

I.——5. Unless specified otherwise, the provisions of this ~~section~~ article are applicable to various sources as follows:

1.——a. Provisions referring to "sources," "new or modified sources, or both" or "stationary sources" are applicable to the construction, reconstruction or modification of all stationary sources (including major stationary sources and major modifications) and the emissions from them to the extent that such sources and their emissions are not subject to the provisions of ~~9 VAC 5-80-20 or 9 VAC 5-80-30~~ Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

2.——b. Provisions referring to "major stationary sources" are applicable to the construction, reconstruction or modification of all major stationary sources.

3.——c. In cases where the provisions of ~~9 VAC 5-80-20 or 9 VAC 5-80-30~~ Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part conflict with those of this ~~section~~ article, the provisions of ~~9 VAC 5-80-20 or 9 VAC 5-80-30~~ Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part shall prevail.

4. For sources and pollutants not subject to federal requirements the terms "state and federally enforceable" and "federally and state enforceable" or similar wording shall mean "state only enforceable".

9 VAC 5-80-1110. B. Definitions.

A.——1. For the purpose of ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection ~~B-3~~ C of this section.

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B.——2. As used in this ~~section~~ article, all terms not defined here shall have the meaning given them in 9 VAC Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C.——3. Terms defined.

"Actual emissions" means the actual rate of emissions (expressed in tons per year) of a pollutant from a stationary source or portion thereof, as determined in accordance with the provisions of this definition.

1. Actual emissions shall be calculated using an emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted for any 12 consecutive months during the 120 consecutive months that precede the commencement of construction of a proposed physical or operational change at the source, and any current, federally and state enforceable limitations on emissions. In cases where no current federally and state enforceable limitations on emissions exist, emission factors based on the uncontrolled emission rate or otherwise acceptable to the board shall be used.

2. The board may presume that source-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

4. In lieu of subdivision 3 of this definition, actual emissions of an emissions unit following a physical or operational change shall equal the representative actual annual emissions of the unit, provided the owner maintains and submits to the board, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the board if the board determines such a period to be more representative of normal source post-change operations.

"Allowable emissions" means the emission rate of a stationary source calculated by using the

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maximum rated capacity of the source (unless the source is subject to state and federally enforceable limits

which restrict the operating rate or hours of operation, or both) and the most stringent of the following:

1.——(1) Applicable emission standards;

2.——(2) The emission limitation specified as a state and federally enforceable permit condition, including those with a future compliance date; and

3.——(3) Any other applicable emission limitation, including those with a future compliance date.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. With respect to the initial location of a portable ~~facility~~ emissions unit, this term refers to the delivery of any portion of the portable ~~facility~~ emissions unit to the site.

"Commence," as applied to the construction, reconstruction or modification of ~~an emissions unit~~ a stationary source, means that the owner has all necessary preconstruction approvals or permits and has either:

1.——(1) Begun, or caused to begin, a continuous program of actual on-site construction, reconstruction or modification of the ~~unit~~ source, to be completed within a reasonable time; or

2.——(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction, reconstruction or modification of the ~~unit~~ source, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from

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requesting or accepting additional information.

"Construction" means fabrication, erection or installation of an emissions unit.

"Emergency" means, in the context of 9 VAC 5-80-1320 B 2, a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences.

"Emissions cap" means any limitation on the rate of emissions of any regulated air pollutant from one or more emissions units established and identified as an emissions cap in any permit issued pursuant to the new source review program or operating permit program.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent;
2. Contain a legal obligation for the owner to adhere to the terms and conditions;
3. Do not allow a relaxation of a requirement of the State Implementation Plan;
4. Are technically accurate and quantifiable;
5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the State Implementation Plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with 9 VAC 5-80-1180 and other regulations of the board; and
6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal hazardous air pollutant new source review program" means a program for the preconstruction

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review and approval of new sources or expansions to existing ones in accordance with regulations specified below and promulgated to implement the requirements of § 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07 and 40 CFR 61.08 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61.

2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for subparts B, C, D and E.

3. The provisions of 40 CFR 63.40 through 40 CFR 63.44 for issuing approvals to construct or reconstruct a major source of hazardous pollutants under 40 CFR 63.40 through 40 CFR 63.44.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, ~~including those requirements developed pursuant to 40 CFR 60, 61 and 63, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or 9 VAC 5-80-10 et seq., including operating permits issued under an EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program and~~ citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

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3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.

4. Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP).

5. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51.

6. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into a SIP as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.

7. Limitations and conditions in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

8. Individual consent agreements that EPA has legal authority to create.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this article that meets the requirements of 9 VAC 5-80-1250.

"Hazardous air pollutant" means any air pollutant listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60.

"Major modification" means any modification ~~defined as such in 9 VAC 5-80-20 or 9 VAC~~

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~~5-80-30, as may apply~~ that would result in a significant net emissions increase of any regulated air pollutant emitted into the atmosphere by the source or which results in the emission in significant amounts of any regulated air pollutant into the atmosphere not previously emitted.

"Major new source review (major NSR)" means a program for the preconstruction review of changes which are subject to review as new major stationary sources or major modifications under Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any regulated air pollutant.

"Minor new source review (minor NSR)" means a program for the preconstruction review of changes which are subject to review as new or modified sources and which do not qualify as new major stationary sources or major modifications under Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Modification" means any physical change in, change in the method of operation of, or addition to, ~~an emissions unit which increases the uncontrolled emission rate~~ a stationary source that would result in a net emissions increase of any regulated air pollutant emitted into the atmosphere by the ~~unit~~ source or which results in the emission of any regulated air pollutant into the atmosphere not previously emitted, except that the following shall not, by themselves (unless previously limited by permit conditions), be considered modifications under this definition:

1. ~~1.~~ (1) Maintenance, repair and replacement which the board determines to be routine for a source type and which does not fall within the definition of reconstruction;

2. ~~2.~~ (2) An increase in the production rate of a unit, if that increase does not exceed the operating design capacity of that unit;

3. ~~3.~~ (3) An increase in the hours of operation;

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~~4.——(4)~~ Use of an alternative fuel or raw material if, prior to the date any provision of ~~these regulations~~ the regulations of the board becomes applicable to the source type, the ~~emissions unit source~~ source was designed to accommodate that alternative use. A ~~unit source~~ source shall be considered to be designed to accommodate an alternative fuel or raw material if provisions for that use were included in the final construction specifications; ~~or~~

5. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was not designed to accommodate that alternative use and the owner demonstrates to the board that as a result of trial burns at the source or other sources or of other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased;

~~6.——(5)~~ The addition, replacement or use of any system or device whose primary function is the reduction of air pollutants, except when ~~an emission control a system or device that is removed or necessary to comply with applicable air pollution control laws and regulations~~ is replaced by a system or device which the board considers to be less efficient in the control of air pollution emissions; or

7. The removal of any system or device whose primary function is the reduction of air pollutants if the system or device is not necessary for the source to comply with any applicable air pollution control laws or regulations.

"Modified source" means any stationary source (or portion of it), the modification of which commenced on or after March 17, 1972.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which are part of the State Implementation Plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero: (i)

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any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and (ii) any other increases and decreases in actual emissions at the source that are concurrent with the particular change and are otherwise creditable. An increase or decrease in actual emissions is concurrent with the increase from the particular change only if it is directly resultant from the particular change. An increase or decrease in actual emissions is not creditable if the board has relied on it in issuing a permit for the source under the new source review program and that permit is in effect when the increase in actual emissions from the particular change occurs. Creditable increases and decreases shall be federally and state enforceable.

"New source" means any stationary source (or portion of it), the construction or relocation of which commenced on or after March 17, 1972; and any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas), 173 (relating to permits in nonattainment areas), and 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.

"Nonroad engine" means any internal combustion engine:

1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);

2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be capable of being carried or moved from one location to another. Indications of transportability

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include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

An internal combustion engine is not a nonroad engine if:

1. The engine is used to propel a motor vehicle or a vehicle used solely for competition,
or is subject to standards promulgated under § 202 of the federal Clean Air Act; or

2. The engine otherwise included in subdivision 3 above remains or will remain at a
location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal
source.

For purposes of this definition, a location is any single site at a building, structure, facility or installation. Any
engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar
function as the engine replaced will be included in calculating the consecutive time period. An engine located at a
seasonal source is an engine that remains at a seasonal source during the full annual operating period of the
seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent
basis (i.e., at least two years) and that operates at the single location approximately three months (or more) each
year. This subdivision does not apply to an engine after the engine is removed from the location.

"Plantwide applicability limit" means a federally and state enforceable plantwide emission
limitation established for a stationary source such that any subsequent physical or operational changes resulting
in emissions that remain less than the limit, are excluded from the provisions of Article 8 (9 VAC 5-80-1700 et
seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Plantwide applicability limit modification" means, notwithstanding the definition of major
modification and net emissions increase as defined in 9 VAC 5-80-1710 and 9 VAC 5-80-2010, any increase in
the actual emissions rate (in tons per year) over the plantwide applicability limit. Any emissions increase of
volatile organic compounds shall be considered an increase for ozone.

"Portable", in reference to emissions units, means an emissions unit that is designed to have

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the capability of being moved from one location to another for the purpose of operating at multiple locations and storage when idle.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Public comment period" means a time during which the public shall have the opportunity to comment on the new or modified source permit application information (exclusive of confidential information), the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Reactivation" means beginning operation of an emissions unit that has been shut down.

"Reconstruction"

_____ (1) Means the replacement of an emissions unit or its components to such an extent that:

1. _____ (a) The fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new unit, ~~and~~

2. The replacement significantly extends the life of the emissions unit;
and

3. _____ (b) It is technologically and economically feasible to meet the applicable emission standards prescribed under ~~these regulations~~ of the board.

_____ (2) Any determination by the board as to whether a proposed replacement

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constitutes reconstruction shall be based on:

1.—~~(a)~~ The fixed capital cost of the replacements in comparison to the fixed capital cost of the construction of a comparable entirely new unit;

2.—~~(b)~~ The estimated life of the unit after the replacements compared to the life of a comparable entirely new unit;

3.—~~(c)~~ The extent to which the components being replaced cause or contribute to the emissions from the unit; and

4.—~~(d)~~ Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound;

2. Any pollutant for which an ambient air quality standard has been promulgated;

3. Any pollutant subject to any standard promulgated under § 111 of the federal Clean

Air Act;

4. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under of 40 CFR Part 63; or

5. Any pollutant subject to a regulation adopted by the board.

"Relocation" means a change in physical location of a stationary source or an emissions unit from one stationary source to another stationary source.

"Secondary emissions" means emissions which occur or would occur as a result of the construction, reconstruction, modification or operation of a stationary source, but do not come from the stationary source itself. For the purpose of this ~~section~~ article, secondary emissions must be specific, well-defined, and

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quantifiable; and must impact upon the same general areas as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any off site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

1. In reference to a plantwide applicability limit or net emissions increase for any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

<u>Pollutant</u>	<u>Emissions Rate</u>
<u>Carbon Monoxide</u>	<u>100 tons per year (tpy)</u>
<u>Nitrogen Oxides</u>	<u>40 tpy</u>
<u>Sulfur Dioxide</u>	<u>40 tpy</u>
<u>Particulate Matter</u>	<u>25 tpy</u>
<u>PM₁₀</u>	<u>15 tpy</u>
<u>Ozone</u>	<u>40 tpy of volatile organic compounds</u>
<u>Lead</u>	<u>0.6 tpy</u>
<u>Fluorides</u>	<u>3 tpy</u>
<u>Sulfuric Acid Mist</u>	<u>7 tpy</u>
<u>Hydrogen Sulfide (H₂S)</u>	<u>10 tpy</u>
<u>Total Reduced Sulfur</u>	
<u>(including H₂S)</u>	<u>10 tpy</u>
<u>Reduced Sulfur Compounds</u>	

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(including H₂S) 10 tpy

Municipal waste combustor organics

(measured as total tetra-through

octa-chlorinated dibenzo-p-dioxins

and dibenzofurans)

3.5 x 10⁻⁶ tpy

Municipal waste combustor metals

(measured as particulate matter)

15 tpy

Municipal waste combustor acid gases

(measured as the sum of SO₂ and Hcl)

40 tpy

Municipal solid waste landfill emissions

(measured as nonmethane organic compounds) 50 tpy

2. In reference to a plantwide applicability limit or net emissions increase for any regulated air pollutant that subdivision 1 of this definition does not list, any emissions rate. However, for purposes of the applicability of this definition, hazardous air pollutants are not considered regulated pollutants.

"State enforceable" means all limitations and conditions which are enforceable ~~by the board as~~ a practical matter, including those requirements developed pursuant to ~~9 VAC 5-20-110~~ 9 VAC 5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to ~~9 VAC 5 Chapter 80~~ this chapter.

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any ~~vessel~~ watercraft or any nonroad engine. Pollutant-emitting activities shall be considered as part of the same industrial grouping if

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they belong to the same "major group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual," as amended by the supplement (see 9 VAC 5-20-21).

"Synthetic minor" means a stationary source whose potential to emit is constrained by state-enforceable and federally enforceable limits, so as to place that stationary source below the threshold at which it would be subject to permit or other requirements governing major stationary sources in regulations of the board or in the federal Clean Air Act.

"Uncontrolled emission rate" means the emission rate from a source when operating at maximum capacity without air pollution control equipment. Air pollutant pollution control equipment is equipment that enables the source to conform to applicable air pollution control laws and regulations ~~includes control equipment which and that is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emission rate of a source. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.~~

9 VAC 5-80-1120. G. General.

A.——1. Except as provided in 9 VAC 5-80-1130, no owner or other person shall begin actual construction, reconstruction or modification of any of the following types of sources stationary source without first obtaining from the board a permit to construct and operate or to modify and operate ~~such~~ the source:

_____ a. Any stationary source; or

_____ b. Any stationary source of hazardous air pollutants to which an emission standard prescribed under 9 VAC 5-60-10 et seq. became applicable prior to the beginning of construction, reconstruction

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or modification. ~~In the event that a new emission standard prescribed under 9 VAC 5-60-10 et seq. becomes applicable after a permit is issued but prior to initial startup, a new permit must be obtained by the owner.~~

B.——2: No owner or other person shall relocate any emissions unit ~~subject to the provisions of 9 VAC 5-20-160~~ from one stationary source to another without first obtaining from the board a permit to relocate the unit.

C.——3: No owner or other person shall reduce the outlet elevation of any stack or chimney which discharges any pollutant from an affected facility ~~subject to the provisions of 9 VAC 5-20-160~~ without first obtaining a permit from the board.

D.——4: The board may combine the requirements of and the permits for emissions units within a stationary source subject to ~~9 VAC 5-80-10, 9 VAC 5-80-20, and 9 VAC 5-80-30~~ the new source review program into one permit. Likewise the board may require that applications for permits for emissions units within a stationary source required by ~~9 VAC 5-80-10, 9 VAC 5-80-20, and 9 VAC 5-80-30~~ any provision of the new source review program be combined into one application.

E. The board in evaluating permit applications and issuing permits shall not consider any consequences to the applicant of beginning actual construction or modification prior to receiving a permit whether or not it is done under the provisions of 9 VAC 5-80-1130.

F. No emission cap or similar provisions contained in any permit issued by the board shall be construed to be a plantwide applicability limit unless the permit is issued following the requirements of this article in effect after (insert effective date), including specifically 9 VAC 5-80-1170 E and 9 VAC 5-80-1310.

G. Nothing in the regulations of the board shall be construed to prevent the board from granting permits for programs of construction or modification in planned incremental phases. In such cases, all net emissions increases from all emissions units covered by the program shall be added together for determining the applicability of this article.

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H. For sources subject to the federal hazardous air pollutant new source review program, the provisions of the federal hazardous air pollutant new source review program shall be implemented through this article. Permits issued under this article shall be the administrative mechanism for issuing approvals under the provisions of federal hazardous air pollutant new source review program. In cases where there are differences between the provisions of this article and the provisions of federal hazardous air pollutant new source review program, the more restrictive provisions shall apply. This subsection applies only to the extent that the provisions of the federal hazardous air pollutant new source review program are not being implemented by other new source review program regulations of the board.

9 VAC 5-80-1130. Concurrent Construction

A. An owner may begin and complete actual construction of a modification to an existing stationary source prior to receiving a permit required by this article if each of the following conditions is met:

1. The owner has submitted an application for a permit for the modification with a notice of intent to begin actual construction of the modification;

2. The owner has submitted a certification that he (i) freely assumes all financial and other risks associated with beginning actual construction of the modification prior to receiving a permit and (ii) acknowledges that the board in evaluating permit applications may not consider any consequences to the applicant of beginning actual construction prior to receiving a permit;

3. The board has not, within 60 days of receipt of the permit application, issued a written notice to the owner, based on concerns about air quality impacts or emissions control technology, requiring the termination of construction as soon as practicable but no later than five business days after receipt of the notice;

4. The owner constructs the modification as described in the permit application; and

5. The owner does not commence operation of the modification until the permit has been issued.

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B. An owner may begin actual construction or reconstruction of a new stationary source prior to receiving a permit required by this article in accordance with the following procedures:

1. If the requirement for a permit prior to construction will create an undue hardship to the applicant, the applicant may, prior to submitting a permit application, request a waiver to proceed with construction from the board.

2. The request for a waiver shall be in writing, shall explain the circumstances that will cause the undue hardship, and shall be signed by a responsible official. The request shall contain:

a. A certification that the owner (i) freely assumes all financial and other risks associated with beginning actual construction prior to receiving a permit and (ii) acknowledges that the board in evaluating permit applications may not consider any consequences to the applicant of beginning actual construction prior to receiving a permit.

b. Sufficient information for the board to make a determination as to whether the permit application is subject to Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

3. If the request contains the information specified in subdivision 2 of this subsection and is complete within the context of § 10.1-1321.1 of the Virginia Air Pollution Control law, the request for a waiver shall be acted upon by the board within 30 days.

4. Upon granting the waiver, the board shall determine what construction activities constitute the beginning of actual construction on that source, and what portions of the source the owner may construct prior to issuance of a permit. In doing so, the board shall consider (i) the extent to which such portions of the source may irrevocably determine the emissions of the completed source; and (ii) the undue hardship upon the owner of delaying construction until the permit has been issued.

5. If a waiver is granted, the applicant shall submit the permit application for action by the board as soon as is reasonably practical but no later than 30 days after the waiver is granted. The applicant, after a

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waiver is granted, shall proceed at his own risk with construction of portions of the source allowed by the terms of the waiver; however, no operation of the source shall commence until a permit has been issued by the board authorizing the operation.

C. After construction, modification, or reconstruction has begun or been completed, if the plans, specifications, and completed installations do not meet applicable regulatory requirements, the application for a permit shall be denied, unless the alterations required to effect approval are made within a reasonable time as specified by the board.

D. No provision of this section shall be construed as applying to the following:

1. Any stationary source or emissions unit subject to the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

2. Any stationary source for which a plantwide applicability limit is established.

3. Any synthetic minor or other stationary source receiving a permit under this article that would establish terms and conditions that would enable the source to avoid major new source review.

9 VAC 5-80-1140. D. Applications.

A.——1. A single application is required identifying at a minimum each emissions point within the emissions unit subject to the provisions of this section article. The application shall be submitted according to procedures approved by acceptable to the board. However, where several emissions units are included in one project, a single application covering all units in the project may be submitted. A separate application is required for each location.

B. A separate application is required for each stationary source.

C.——2. For projects with phased development, a single application should be submitted covering the entire project.

D.——3. Any application form, report, or compliance certification submitted to the board shall be

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signed by a responsible official. A responsible official is defined as follows: comply with the provisions of 9 VAC 5-20-230.

~~_____ a. For a business entity, such as a corporation, association or cooperative, a responsible official is either:~~

~~_____ (1) The president, secretary, treasurer, or a vice president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision making functions for the business entity; or~~

~~_____ (2) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.~~

~~_____ b. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.~~

~~_____ c. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.~~

~~_____ 4. Any person signing a document under subsection D 3 above shall make the following certification:~~

~~_____ "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and~~

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~~evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."~~

~~_____ 5. As required under § 10.1-1321.1 of the Virginia Air Pollution Control Law, applications shall not be deemed complete unless the applicant has provided a notice from the locality in which the source is located or is to be located that the site and operation of the source are consistent with all local ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.~~

9 VAC 5-80-1150. E. Application information required.

A. The board shall furnish application forms to applicants. Completion of these forms serves as initial registration of new and modified sources.

B._____ 1. Each application for a permit shall include such information as may be required by the board to determine the effect of the proposed source on the ambient air quality and to determine compliance with the emission standards which are applicable. The information required shall include, but is not limited to, the following:

~~_____ a. That specified on applicable permit forms furnished by the board. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations. Completion of these forms serves as initial registration of new and modified sources; and~~

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.

2. A description of the source's processes and products (by Standard Industrial Classification Code).

3. All emissions of regulated air pollutants.

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a. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit or group of emissions units to be covered by the permit.

b. Emissions shall be calculated as required in the permit application form or instructions.

c. Fugitive emissions shall be included in the permit application to the extent quantifiable.

4. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

5. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.

6. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

7. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the source.

8. Calculations on which the information in subdivisions 3 through 7 of this subsection are based. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations.

9.——b. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the stationary source or emissions unit, including the submission of measured air quality data at the proposed site prior to construction, reconstruction or modification. Such measurements shall be accomplished using procedures acceptable to the board.

C.——2. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.

9 VAC 5-80-1160. F. Action on permit application.

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A.——1. Within 30 days after receipt of an application, the board shall notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include (i) a determination as to which provisions of ~~9 VAC 5-80-10 et seq.~~ the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board shall notify the applicant of any deficiencies in such information. The date of receipt of a complete application for processing under ~~subsection F 2~~ subsection B of this section shall be the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met.

B.——2. If no public comment period is required, Processing time for a permit is normally 90 days following receipt of a complete application. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to, the following: ~~Processing steps normally are as follows:~~

1.——a. Completion of the preliminary review and analysis in accordance with ~~subsection I of this section 9 VAC 5-80-1190~~ and the preliminary decision of the board. This step may constitute the final step if the provisions of ~~subsection G of this section 9 VAC 5-80-1170~~ concerning public participation are not applicable.

2.——b. When required, completion of the public participation requirements in ~~subsection G of this section 9 VAC 5-80-1170~~ and.

3.——c. Completion of the final review and analysis and the final decision of the board.

C.——3. The board will normally ~~will~~ take action on all applications after completion of the review and

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analysis, or expiration of the public comment period (and consideration of comments from that) when required, unless more information is needed. The board shall notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with ~~subsection J of this section~~ 9 VAC 5-80-1200.

~~D.~~—4. The applicant may appeal the decision pursuant to ~~9 VAC 5-20-90~~ Part VIII (9 VAC 5-170-190 et seq.) of 9 VAC 5 Chapter 170.

~~E.~~—5. Within ~~5~~ five days after notification to the applicant pursuant to subsection ~~F-3~~ C of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in ~~subsection G-5-a of this section~~ 9 VAC 5-80-1170 F 1.

9 VAC 5-80-1170. ~~G.~~ Public participation.

~~A.~~—1. No later than 15 days after receiving the initial determination notification required under ~~subsection F-1 of this section~~ 9 VAC 5-80-1160 A, the applicant for a permit for a major stationary source or a major modification with a net emissions increase of 100 tons per year of any single pollutant shall notify the public of the proposed source or modification as required in accordance with ~~subsection G-2 B~~ subsection of this section.

~~B.~~—2. The public notice required ~~under this~~ by subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

- ~~1.~~—a. The source name, location, and type;
- ~~2.~~—b. The pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;
- ~~3.~~—c. The control technology proposed to be used at the time of the publication of the

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notice; and

~~4.~~ ~~—~~ ~~d.~~ The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

~~C.~~ ~~—~~ ~~3.~~ Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as to that required in subsection ~~G-2~~ A of this section.

~~D.~~ ~~—~~ ~~4.~~ Prior to the decision of the board, permit applications as specified below shall be subject to a public comment period of at least 30 days: ~~At the end of the public comment period, a public hearing shall be held in accordance with subsection G-5 of this section.~~

~~1.~~ ~~—~~ ~~a.~~ Applications for stationary sources of hazardous air pollutants ~~as specified in subsection C-1 b of this section~~ subject to the federal hazardous air pollutant new source review program and requiring a case-by-case maximum achievable control technology determination.

~~2.~~ ~~—~~ ~~b.~~ Applications for major stationary sources and major modifications ~~with a net emissions increase of 100 tons per year of any single pollutant.~~

~~—~~ ~~c.~~ Applications for stationary sources which have the potential for public interest concerning air quality issues, as determined by the board. ~~The identification of such sources shall be made using the following criteria:~~

~~—~~ ~~(1) Whether the project is opposed by any person;~~

~~—~~ ~~(2) Whether the project has resulted in adverse media;~~

~~—~~ ~~(3) Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and~~

~~—~~ ~~(4) Whether the project has generated adverse comment by a local official, governing body or advisory board.~~

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~~3.~~—~~d.~~ Applications for stationary sources for which any provision of the permit is to be based upon a good engineering practice (GEP) stack height that exceeds the height allowed by subdivisions 1 and 2 of the GEP definition. The demonstration specified in subdivision 3 of the GEP definition must be available during the public comment period.

E. Prior to the decision of the board, permit applications as specified below shall be subject to a public comment period of at least 30 days. At the end of the public comment period, a public hearing shall be held in accordance with subsection F of this section.

1. Applications to establish a plantwide applicability limit.

2. Applications for stationary sources which have the potential for public interest concerning air quality issues, as determined by the board. The identification of such sources shall be made using the following criteria:

a. Whether the project is opposed by any person;

b. Whether the project has resulted in adverse media;

c. Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and

d. Whether the project has generated adverse comment by a local official, governing body or advisory board.

E.—~~5.~~ When a public comment period and public hearing are required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for the public comment and the public hearing on the information available for public inspection under the provisions of ~~subsection subdivision G-5-a~~ F 1 of this section. The notification shall be published at least 30 days prior to the day of the public hearing.

~~1.~~—~~a.~~ Information on the permit application (exclusive of confidential information under ~~9~~

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~~VAC 5-20-150~~ 9 VAC 5-170-60), as well as the preliminary review and analysis and preliminary decision of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

~~2.——b.~~ A copy of the notice shall be sent to all local air pollution control agencies having ~~State Implementation Plan responsibilities~~ jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Notices of public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Air Pollution Control Law of Virginia.

G. In order to facilitate the efficient issuance of permits under Articles 1 (9 VAC 5-80-50 et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part, upon request of the applicant the board shall process the permit application under this article using public participation procedures meeting the requirements of this section and 9 VAC 5-80-270 or 9 VAC 5-80-670, as applicable.

9 VAC 5-80-1180. H. Standards and conditions for granting permits.

~~A.——1.~~ No permit shall be granted pursuant to this ~~section~~ article unless it is shown to the satisfaction of the board that the source will be designed, built and equipped to operate without causing a violation of the applicable provisions of ~~these regulations~~ the regulations of the board and that the following standards have been met:

~~1.——a.~~ The source shall be designed, built and equipped to comply with standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and with emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.);

2. For sources subject to permits issued in accordance with the federal hazardous air pollutant new source review program, the source shall be designed, built, and equipped to comply with the

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applicable emission standard and other requirements prescribed in 40 CFR Part 61 or Part 63, as applicable.

~~3.——b.~~ The source shall be designed, built and equipped to operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard and without causing or exacerbating a violation of any applicable ambient air quality standard; and

~~4.——c. Stack evaluation reductions under 9 VAC 5-80-10-C-3.~~ The source shall be designed, built and equipped to operate without ~~preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard and without causing or exacerbating a violation of any applicable ambient air quality standard~~ causing a violation of the applicable provisions of regulations of the board.

B. Permits may be granted to stationary sources or emissions units that contain plantwide applicability limits and emission caps provided the limits or caps are made enforceable as a practical matter using the elements set forth in subsection D of this section.

C. Permits granted pursuant to this article may contain emissions standards as necessary to implement the provisions of this article and 9 VAC 5-50-260. The following criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are enforceable as a practical matter:

1. Standards may include the level, quantity, rate, or concentration or any combination of them for each affected pollutant.

2. In no case shall a standard result in emissions which would exceed the emissions rate based on the potential to emit of the emissions unit.

3. Standards shall only include limitations that are determined by the board to be achievable through application of production processes or available methods, systems, and techniques, including, but not limited to, any of the following: emissions control equipment, fuel cleaning or treatment, fuel combustion techniques, or substitution of less toxic or nontoxic materials.

4. The standard may prescribe, as an alternative to or a supplement to an emission limitation,

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an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination of them.

D. Permits issued under this article shall contain, but not be limited to, any of the following elements as necessary to ensure that the permits are enforceable as a practical matter:

1. Emission standards.

2. Conditions necessary to enforce emission standards. Conditions may include, but not be limited to, any of the following:

a. Limit on fuel sulfur content.

b. Limit on production rates with time frames as appropriate to support the emission standards.

c. Limit on raw material usage rate.

d. Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment.

3. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size. Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.

4. Specifications for air pollution control equipment installed or to be installed. Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.

5. Specifications for air pollution control equipment operating parameters and the

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circumstances under which such equipment shall be operated, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, any of the following:

- a. Pressure indicators and required pressure drop.
 - b. Temperature indicators and required temperature.
 - c. pH indicators and required pH.
 - d. Flow indicators and required flow.
6. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.
7. Stack test requirements.
8. Reporting or recordkeeping requirements, or both.
9. Continuous emission or air quality monitoring requirements, or both.
10. Other requirements as may be necessary to ensure compliance with the applicable regulations.

9 VAC 5-80-1190. ~~1.~~ Application review and analysis.

No permit shall be granted pursuant to this ~~section~~ article unless compliance with the standards in ~~subsection H of this section~~ 9 VAC 5-80-1180 is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

1. ~~Stationary sources.~~ Applications for stationary sources shall be subject to the following review and analysis:
 - a. ~~Applications for stationary sources shall be subject to a~~ A control technology review to determine if ~~such the~~ source will be designed, built and equipped to comply with all applicable standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.).

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b. ~~Applications shall be subject to an~~ An air quality analysis to determine the impact of pollutant emissions as may be deemed appropriate by the board.

2. ~~Stationary sources of hazardous air pollutants.~~ Applications for stationary sources of hazardous air pollutants shall be subject to a control technology review to determine if ~~such~~ the source will be designed, built and equipped to comply with all applicable emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.).

3. ~~Stack elevation reductions under 9 VAC 5-80-10 C 3.~~ Applications under ~~9 VAC 5-80-10 9 VAC 5-80-1120 C 3~~ shall be subject to an air quality analysis to determine the impact of applicable criteria pollutant emissions.

4. Applications for sources subject to the federal hazardous air pollutant new source review program shall be subject to a control technology review to determine if the source will be designed, built and equipped to comply with all applicable emission standards prescribed under 40 CFR Part 61 or 63.

9 VAC 5-80-1200. ~~J.~~ Compliance determination and verification by performance testing.

A. ~~1.~~ For stationary sources other than those specified in ~~subdivision 2~~ subsection B of this subsection, compliance with standards of performance shall be determined in accordance with the provisions of 9 VAC 5-50-20 and shall be verified by performance tests in accordance with the provisions of 9 VAC 5-50-30.

B. ~~2.~~ For stationary sources of hazardous air pollutants, compliance with emission standards shall be determined in accordance with the provisions of 9 VAC 5-60-20 and shall be verified by emission tests in accordance with the provisions of 9 VAC 5-60-30.

C. ~~3.~~ Testing required by subsections ~~J-1 and 2~~ A and B of this section shall be conducted by the owner within 60 days after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided by the owner with two or, upon request, more copies of a written report of the results of the tests.

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~~D.~~—4. For sources subject to the provisions of ~~Rule 5-5, or 6-1~~ 40 CFR Parts 60, 61 or 63, the requirements of ~~subsection J 1 through 3~~ subsections A, B and C of this section shall be met ~~in all cases as~~ specified in those parts of Title 40 of the Code of Federal Regulations.

~~E.~~—5. For sources other than those specified in subsection ~~J 4~~ D of this section, the requirements of ~~subsection J 1 through 3~~ subsections A, B and C of this section shall be met unless the board:

~~1.~~—~~a.~~ Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

~~2.~~—~~b.~~ Approves the use of an equivalent method;

~~3.~~—~~c.~~ Approves the use of an alternative method, the results of which the board has determined to be adequate for indicating whether a specific source is in compliance;

~~4.~~—~~d.~~ Waives the requirement for testing because, based upon a technical evaluation of the past performance of similar source types, using similar control methods, the board reasonably expects the new or modified source to perform in compliance with applicable standards; or

~~5.~~—~~e.~~ Waives the requirement for testing because the owner of the source has demonstrated by other means to the board's satisfaction that the source is in compliance with the applicable standard.

~~E.~~—6. The provisions for the granting of waivers under subsection ~~J 5~~ E of this section are intended for use in determining the initial compliance status of a source, and the granting of a waiver does not obligate the board to do so for determining compliance once the source has been in operation for more than one year beyond the initial startup date.

9 VAC 5-80-1210. ~~K.~~ Permit invalidation, rescission, revocation and enforcement.

~~A.~~—1. A permit granted pursuant to this ~~section~~ article shall become invalid if a program of continuous construction, reconstruction or modification is not commenced within the latest of the following time

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frames:

~~1.~~—~~a.~~ Eighteen months from the date the permit is granted;

~~2.~~—~~b.~~ Nine months from the date of the issuance of the last permit or other authorization
(other than permits granted pursuant to this ~~section~~ article) from any governmental entity; or

~~3.~~—~~c.~~ Nine months from the date of the last resolution of any litigation concerning any such
permits or authorizations (including permits granted pursuant to this ~~section~~ article).

~~B.~~—2. A permit granted pursuant to this ~~section~~ article shall become invalid if a program of
construction, reconstruction or modification is discontinued for a period of 18 months or more, or if a program of
construction, reconstruction or modification is not completed within a reasonable time. This provision does not
apply to the period between construction of the approved phases of a phased construction project; each phase
must commence construction within 18 months of the projected and approved commencement date.

~~C.~~—3. The board may extend the periods prescribed in subsections ~~K-1 and 2~~ A and B of this
section upon a satisfactory demonstration that an extension is justified. Provided there is no substantive change
to the application information, the review and analysis, and the decision of the board, such extensions may be
granted without being subject to the requirements of ~~subsection C of this section~~ 9 VAC 5-80-1170.

~~D.~~—4. Any owner who constructs or operates a new or modified source not in accordance ~~(i) with~~
~~the application submitted pursuant to this section or (ii) with the terms and conditions of any permit to construct or~~
operate, or, except as provided in 9 VAC 5-80-1130, any owner of a new or modified source subject to this
~~section article~~ who commences construction or operation without ~~applying for and~~ receiving a permit hereunder,
shall be subject to appropriate enforcement action including, but not limited to, any specified in this ~~sub~~section.

~~E.~~—5. Permits issued under this ~~section~~ article shall be subject to such terms and conditions set
forth in the permit as the board may deem necessary to ensure compliance with all applicable requirements of
the regulations of the board.

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~~E.~~—6. The board may revoke any permit if the permittee:

~~1.~~—~~a.~~ Knowingly makes material misstatements in the permit application or any amendments to it;

~~2.~~—~~b.~~ Fails to comply with the terms or conditions of the permit;

~~3.~~—~~c.~~ Fails to comply with any emission standards applicable to an emissions unit included in the permit;

~~4.~~—~~d.~~ Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted; or

~~5.~~—~~e.~~ Fails to comply with the applicable provisions of this ~~section~~ article.

~~G.~~—7. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation contained in subsection ~~K-6 E~~ of this section or for any other violations of ~~these regulations~~ the regulations of the board.

H. The permittee shall comply with all terms and conditions of the permit. Any permit noncompliance constitutes a violation of the Virginia Air Pollution Control law and is grounds for (i) enforcement action or (ii) termination or revocation.

~~I.~~—8. Violation of ~~these regulations~~ the regulations of the board shall be grounds for revocation of permits issued under this ~~section~~ article and are subject to the civil charges, penalties and all other relief contained in ~~Part II of these regulations~~ Part V (9 VAC 5-170-120 et seq.) of 9 VAC 5 Chapter 170 and the Virginia Air Pollution Control Law.

~~J.~~—9. The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit, or to render a permit invalid.

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K. Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a permit is invalid or revoked prior to any final decision rendered under subsection J of this section.

L. Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a permit is rescinded because all of the statutory or regulatory requirements (i) upon which the permit is based or (ii) that necessitated issuance of the permit are no longer applicable.

9 VAC 5-80-1220. L. Existence of permit no defense.

The existence of a permit under this ~~section~~ article shall not constitute defense to a violation of the Virginia Air Pollution Control Law or ~~these regulations~~ the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

9 VAC 5-80-1230. M. Compliance with local zoning requirements.

~~———— The owner shall~~ No provision of this part or any permit issued thereunder shall relieve any owner from the responsibility to comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located or proposes to be located; provided, however, that such compliance does not relieve the board of its duty under ~~9 VAC 5-20-140 of these Regulations~~ 9 VAC 5-170-170 and ~~§ 10.1-1307 E~~ of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

~~———— N. Reactivation and permanent shutdown.~~

~~———— 1. The reactivation of a stationary source is not subject to provisions of this section unless a decision concerning shutdown has been made pursuant to the provisions of subdivisions N 2 through N 4 of this section or 9 VAC 5-80-40 P 5.~~

~~———— 2. Upon a final decision by the board that a stationary source is shut down permanently, the board shall revoke the permit by written notification to the owner and remove the source from the emission~~

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~~inventory or consider its emissions to be zero in any air quality analysis conducted; and the source shall not commence operation without a permit being issued under the applicable provisions of 9 VAC 5-80-10 et seq.~~

~~_____ 3. The final decision shall be rendered as follows:~~

~~_____ a. Upon a determination that the source has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the source is considered to be shut down permanently; (ii) that the decision shall become final if the owner fails to provide, within three months of the notice, written response to the board that the shutdown is not to be considered permanent; and (iii) that the owner has a right to a formal hearing on this issue before the board makes a final decision. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart up of the source and shall include a request for a formal hearing if the owner wishes to exercise that right.~~

~~_____ b. If the board should find that the basis for the assertion is not sound or the projected restart up date allows for an unreasonably long period of inoperation, the board shall hold a formal hearing on the issue if one is requested or, if no hearing is requested, the decision to consider the shutdown permanent shall become final.~~

~~_____ 4. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a source is shutdown permanently prior to any final decision rendered under subdivision N 3 of this section.~~

9 VAC 5-80-1240. ~~Q~~. Transfer of permits.

A.—1. No persons shall transfer a permit from one location to another, or from one piece of equipment to another.

B.—2. In the case of a transfer of ownership of a stationary source, the new owner shall abide by any current permit issued to the previous owner. The new owner shall notify the board of the change in

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ownership within 30 days of the transfer.

~~C.~~—3. In the case of a name change of a stationary source, the owner shall abide by any current permit issued under the previous source name. The owner shall notify the board of the change in source name within 30 days of the name change.

~~D.~~—4. The provisions of this ~~sub~~section concerning the transfer of a permit from one location to another shall not apply to the relocation of portable facilities emission units that are exempt from the provisions of this section article by ~~subsection G of 9 VAC 5-80-11~~ 9 VAC 5-80-1320 A 1 c.

~~—P. Circumvention.~~

~~—Regardless of the exemptions provided in this section, no owner or other person shall circumvent the requirements of this section by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.~~

9 VAC 5-80-1250. General permits.

A. The requirements for issuance of a general permit are as follows:

1. The board may issue a general permit covering a stationary source or emissions unit category containing numerous similar stationary sources or emissions units that meet the following criteria:

a. All stationary sources or emissions units in the category shall be essentially the same in terms of operations and processes and emit either the same pollutants or those with similar characteristics.

b. Stationary sources or emissions units shall not be subject to case-by-case standards or requirements.

c. Stationary sources or emissions units shall be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or recordkeeping.

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2. Stationary sources or emissions units subject to a general permit shall comply with all requirements applicable to other permits issued under this article.

3. General permits shall (i) identify the criteria by which stationary sources or emissions units may qualify for the general permit and (ii) describe the process for stationary sources or emissions units to use in applying for the general permit.

4. General permits shall be issued in accordance with § 9-6.14:4.1 C 11 of the Administrative Process Act.

5. In addition to fulfilling the requirements specified by law, the notice of public comment shall include, but not be limited to, the following:

a. The name, address and telephone number of a department contact from whom interested persons may obtain additional information including copies of the draft general permit;

b. The criteria to be used in determining which stationary sources or emissions units qualify for the general permit;

c. A brief description of the stationary source or emissions unit category that the department believes qualifies for the general permit including, but not limited to, an estimate of the number of individual stationary sources or emissions units in the category;

d. A narrative statement of the estimated air quality impact contributed by the stationary source or emissions unit category covered by the general permit including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used, if applicable;

e. A brief description of the application process to be used by stationary sources or emissions units to request coverage under the general permit; and

f. A brief description of the public comment procedures.

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B. The requirements for application for a general permit are as follows:

1. Stationary sources or emissions units which qualify for a general permit may apply to the board for coverage under the terms of the general permit. Stationary sources or emissions units that do not qualify for a general permit shall apply for coverage under a permit issued under the other provisions of this article.

2. The application shall meet the requirements of this article and include all information necessary to determine qualification for and to assure compliance with the general permit.

3. Stationary sources or emissions units that become subject to the general permit after it is issued to other stationary sources or emissions units in the category addressed by the general permit shall file an application with the board using the application process described in the general permit. The board shall issue the general permit to the stationary source or emissions unit if it determines that the stationary source or emissions unit meets the criteria set out in the general permit.

C. The requirements for issuance of a general permit are as follows:

1. The board shall grant the conditions and terms of the general permit to stationary sources or emissions units that meet the criteria set out in the general permit covering the specific stationary source or emissions unit category.

2. The issuance of a permit to a stationary source or emissions unit covered by a general permit shall not require compliance with the public participation procedures under 9 VAC 5-80-1170.

3. A response to each general permit application may not be provided. The general permit may specify a reasonable time period after which a stationary source or emissions unit that has submitted an application shall be deemed to be authorized to operate under the general permit.

4. Stationary sources or emissions units covered under a general permit may be issued a letter, a certificate, or a summary of the general permit provisions, limits, and requirements, or any other

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document which would attest that the stationary source or emissions unit is covered by the general permit.

5. The general permit shall specify where the general permit and the letter, certificate, summary or other document shall be maintained by the source.

D. The requirements pertaining to enforcement of a general permit are as follows:

1. The stationary source or emissions unit shall be subject to enforcement action under 9 VAC 5-80-1210 for operation without a permit issued under this article if the stationary source or emissions unit is later determined by the board not to qualify for the conditions and terms of the general permit.

2. The act of granting or denying a request for authorization to operate under a general permit shall not be subject to judicial review.

9 VAC 5-80-1260. Changes to permits.

A. The general requirements for making changes to permits are as follows:

1. Changes to a permit issued under this article shall be made as specified under subsections B and C of this section and 9 VAC 5-80-1270 through 9 VAC 5-80-1300.

2. Changes to a permit issued under this article may be initiated by the permittee as specified in subsection B of this section or by the board as specified in subsection C of this section.

3. Changes to a permit issued under this article and incorporated into a permit issued under Article 1 (9 VAC 5-80-50 et seq.) of this part shall be made as specified in Article 1 (9 VAC 5-80-50 et seq.) of this part.

4. This section shall not be applicable to general permits.

B. The requirements for changes initiated by the permittee are as follows:

1. The permittee may initiate a change to a permit by submitting a written request to the board for an administrative permit amendment, a minor permit amendment or a significant permit amendment. The requirements for these permit revisions can be found in 9 VAC 5-80-1270 through 9 VAC 5-80-1290.

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2. A request for a change by a permittee shall include a statement of the reason for the proposed change.

C. The board may initiate a change to a permit through the use of permit reopenings as specified in 9 VAC 5-80-1300.

9 VAC 5-80-1270. Administrative permit amendments.

A. Administrative permit amendments shall be required for and limited to the following:

1. Correction of typographical or any other error, defect or irregularity which does not substantially affect the permit.

2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.

3. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of 9 VAC 5-80-1240 have been fulfilled.

4. The combining of permits under the new source review program as provided in 9 VAC 5-80-1120 D.

B. The administrative permit amendment procedures are as follows:

1. The board will normally take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request.

2. The board shall incorporate the changes without providing notice to the public under 9 VAC 5-80-1170. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.

3. The owner may implement the changes addressed in the request for an administrative

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amendment immediately upon submittal of the request.

9 VAC 5-80-1280. Minor permit amendments.

A. Minor permit amendment procedures shall be used only for those permit amendments that:

1. Do not violate any applicable requirement;
2. Do not involve significant changes to existing monitoring, reporting, or record keeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or record keeping requirements;
3. Do not require or change a case-by-case determination of an emission limitation or other standard;
4. Do not seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:
 - a. An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and
 - b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;
5. Are not modifications under the new source review program or under § 112 of the federal Clean Air Act; and
6. Are not required to be processed as a significant amendment under 9 VAC 5-80-1290; or as an administrative permit amendment under 9 VAC 5-80-1270.

B. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for

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permit amendments involving the use of economic incentives, emissions trading, and other similar approaches,
to the extent that such minor permit amendment procedures are explicitly provided for in a regulation of the board
or a federally-approved program. Minor permit amendment procedures may also be used to require more
frequent monitoring or reporting by the permittee or to reduce the level of an emissions cap.

C. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for
permit amendments involving the rescission of a provision of a permit if the board and the owner make a mutual
determination that the provision is rescinded because all of the statutory or regulatory requirements (i) upon
which the provision is based or (ii) that necessitated inclusion of the provision are no longer applicable.

D. A request for the use of minor permit amendment procedures shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new
applicable regulatory requirements that will apply if the change occurs.

2. A request that such procedures be used.

E. The public participation requirements of 9 VAC 5-80-1170 shall not extend to minor permit
amendments.

F. Normally within 90 days of receipt by the board of a complete request under minor permit
amendment procedures, the board will do one of the following:

1. Issue the permit amendment as proposed.

2. Deny the permit amendment request.

3. Determine that the requested amendment does not meet the minor permit amendment
criteria and should be reviewed under the significant amendment procedures.

G. The requirements for making changes are as follow:

1. The owner may make the change proposed in the minor permit amendment request
immediately after the request is filed.

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2. After the change under subdivision 1 of this subsection is made, and until the board takes any of the actions specified in subsection F of this section, the source shall comply with both the applicable regulatory requirements governing the change and the proposed permit terms and conditions.

3. During the time period specified in subdivision 2 of this subsection, the owner need not comply with the existing permit terms and conditions he seeks to modify. However, if the owner fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions he seeks to modify may be enforced against him.

9 VAC 5-80-1290. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9 VAC 5-80-1280 or as administrative amendments under 9 VAC 5-80-1270.

2. Significant amendment procedures shall be used for those permit amendments that:

a. Involve significant changes to existing monitoring, reporting, or record keeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or record keeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

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(1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act.

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at his discretion, include a suggested draft permit amendment.

C. The provisions of 9 VAC 5-80-1170 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

9 VAC 5-80-1300. Reopening for cause.

A. A permit may be reopened and amended under any of the following situations:

1. Additional regulatory requirements become applicable to the emissions units covered by the permit after a permit is issued but prior to commencement of construction.

2. The board determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

3. The board determines that the permit must be amended to assure compliance with the applicable regulatory requirements or that the conditions of the permit are not sufficient to meet all of the standards and requirements contained in this article.

4. A new emission standard prescribed under 40 CFR Part 60, 61 or 63 becomes applicable after a permit is issued but prior to initial startup.

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B. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

9 VAC 5-80-1310 Plantwide applicability limit.

A. The owner of a stationary source may request the board to approve a plantwide applicability limit for any one or more pollutants, and the board may approve a plantwide applicability limit for a stationary source in accordance with subsections B through F of this section.

B. A plantwide applicability limit may be established only after opportunity for public comment in accordance with 9 VAC 5-80-1170.

C. A plantwide applicability limit may not be established for hazardous air pollutants.

D. A plantwide applicability limit may not be established if it (i) will cause emissions from the stationary source which result in violations of or exacerbate violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or (ii) is not in conformance with any applicable control strategy, including any emission standards or emission limitations, in the implementation plan.

E. The emissions limitations and conditions for a plantwide applicability limit shall be established in accordance with the following:

1. For the purposes of this section the term "actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subdivisions 1 a, b and c of this subsection:

a. In general, actual emissions as of a particular date shall equal the average

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rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The board shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The board may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

2. A plantwide applicability limit shall be established based on either:

a. Plantwide actual emissions (not to exceed current allowable emissions), including a reasonable operating margin, less than the applicable significant emissions rate; or

b. Source-wide limits on annual emissions established in a permit issued within the immediately preceding five years pursuant to Article 9 (9 VAC 5-80-2000 et seq.) of this part, where the source-wide emissions limits were completely offset and relied upon in an attainment demonstration plan or maintenance plan approved by the Commonwealth.

3. Any plantwide applicability limit emissions limitations shall be achievable through application of production processes or available methods, systems, and techniques including, but not limited to, emissions control equipment, fuel cleaning or treatment, fuel combustion techniques, substitution of less polluting materials, or limits on production that represent normal source operations.

4. Plantwide applicability limits may include advanced approvals to make physical or operational changes to stationary sources that would be subject to this article provided the advanced approvals meet the following criteria:

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a. Advanced approvals shall (i) identify the projects or alternative operating scenarios and the conditions and restrictions that apply and (ii) include, but not be limited to, pollutants covered, duration of advance approval and types of changes eligible.

b. Advanced approvals shall assure that the future changes comply with this article by including requirements that pre-approved units in certain source categories employ certain, specified control equipment.

c. Advanced approvals that meet applicable requirements may apply not only to specifically identified new units, but may also apply to new units identified as part of a class, to the extent that associated regulations are written so as to regulate such units as a class. (For example, the federal new source performance standards, national emission standards for hazardous air pollutants, maximum achievable control technology standards, and most state implementation plan limits apply to certain source categories).

d. Advanced approvals of an alternative scenario proposed by an owner shall not be granted if the scenario: (i) does not comply with applicable requirements , including those of the new source review program; (ii) is not enforceable as a practical matter; or (iii) is not reasonably anticipated.

5. Any physical or operational changes not granted advance approval in a permit establishing a plantwide applicability limit are subject to the provisions of this article.

6. Specific terms and conditions that assure that plantwide applicability limit emissions limitations are enforceable as a practical matter shall be contained in a federally and state enforceable permit applicable to the source.

7. The emissions limitations and conditions established for a plantwide applicability limit shall not relieve any owner of the responsibility to comply fully with any applicable control technology requirements.

F. The requirements for plantwide applicability limit modifications shall be as follows:

1. Notwithstanding the definitions for major modification and net emissions increase, as defined

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in 9 VAC 5-80-1710 and 9 VAC 5-80-2010, any physical or operational change consistent with plantwide
applicability limit terms and conditions of a permit issued under this article shall not constitute a major modification
for the pollutants covered by the plantwide applicability limits. All decreases in emissions shall have
approximately the same qualitative significance for public health and welfare as that attributed to the increase
from the particular change;

2. The provisions of 9 VAC 5-80-1140 through 9 VAC 5-80-1200 shall apply to any plantwide
applicability limit modification as if it were a modification, except that in lieu of 9 VAC 5-50-260, a plantwide
applicability limit modification shall apply best available control technology for each regulated air pollutant if an
emissions increase above the plantwide applicability limit would occur; and

3. The best available control technology requirement applies to each emissions unit that
undergoes a physical or operational change and contributes to the emissions increase above the plantwide
applicability limit.

G. The requirements for plantwide applicability limit reevaluations shall be as follows:

1. The board shall reevaluate the plantwide applicability limit emissions limitations pursuant to:
a. Permit renewal and public notification procedures under Articles 1 (9 VAC 5-80-50
et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part; or
b. Any other proceeding with public notice and opportunity for public comment
equivalent to that in 9 VAC 5-80-1170 E.

2. The board shall evaluate and may adjust the source's plantwide applicability limit emissions
limitations to reflect new applicable requirements as they become effective.

H. The requirements for termination of plantwide applicability limits shall be as follows:

1. Nothing in the regulations of the board shall be construed to prevent the board and the
owner from making a mutual determination that a plantwide applicability limit is rescinded.

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2. In cases where a plantwide applicability limit is rescinded under the provisions of subdivision

1 of this subsection or 9 VAC 5-80-1210, the affected emissions units shall be subject to the requirements of this

article as though the plantwide applicability limit had never been in effect.

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~~9 VAC 5-80-11.~~ 9 VAC 5-80-1320. Stationary source Permit exemption levels.

A. ~~General.~~ The general requirements for permit exemption levels are as follows:

1. The provisions of this article do not apply to the following stationary sources or emissions units:

a. The construction, reconstruction, relocation or modification of any stationary source or emissions unit that is exempt under the provisions of subsections B through F of this section.

b. The reconstruction of any stationary source or emissions unit if the emissions resulting from the reconstruction will not increase.

c. The relocation of a portable emissions unit provided that:
(1) The emissions from the portable emissions unit are secondary emissions;
(2) The portable emissions unit has previously been permitted or is subject to
a general permit;

(3) The unit would not undergo modification or reconstruction;
(4) The unit is suitable to the area in which it is to be located; and
(5) Reasonable notice is given to the board prior to the relocation identifying
the proposed new location and the probable duration of operation at the new location. Such notice shall be given
to the board not less than 15 days in advance of the proposed relocation unless a different time duration is
previously approved by the board.

d. The reactivation of a stationary source unless a determination concerning shutdown
has been made pursuant to the provisions of 9 VAC 5-20-220.

e. The use by any source of an alternative fuel or raw material, if the owner
demonstrates to the board that as a result of trial burns at their facility or other facilities or other sufficient data that
the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

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~~1~~ 2. In determining whether a facility source is exempt from the ~~requirements of 9 VAC 5-80-10~~ provisions of this article, the provisions of subsections B through ~~H~~ D of this section are independent from the provisions of ~~subsection I~~ subsections E and F of this section. A facility source must be determined to be exempt both under the provisions of subsections B through ~~H~~ D taken as a group and under the provisions of subsection ~~I~~ E or F to be exempt from ~~9 VAC 5-80-10~~ this article.

~~2~~ 3. In determining whether a facility is exempt from the ~~requirements of 9 VAC 5-80-10~~ provisions of this article under the provisions of subsections B ~~and C~~ of this section, the definitions in ~~the rule in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.)~~ that would cover the facility if it were an existing source shall be used unless deemed inappropriate by the board.

B. ~~New source exemption levels by size.~~

Facilities as specified below shall be exempt from the ~~requirements of 9 VAC 5-80-10~~ provisions of this article as they pertain to construction, reconstruction or relocation.

1. Fuel burning equipment units (external combustion units, not engines and turbines) as follows:-

a. ~~Any unit~~ Using solid fuel with a maximum heat input of less than 1,000,000 Btu per hour.

b. ~~Any unit~~ Using liquid fuel with a maximum heat input of less than 10,000,000 Btu per hour.

c. ~~Any unit~~ Using liquid and gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

d. ~~Any unit~~ Using gaseous fuel with a maximum heat input of less than 50,000,000 Btu per hour, unless subject to a new source performance standard in Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.

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~~_____ e. Any unit that powers a mobile source but is removed for maintenance or repair and testing.~~

2. Engines and turbines used for emergency purposes only and which do not exceed 500 hours of operation per year at a single stationary source as follows:

a. Gasoline engines with an aggregate rated brake (output) horsepower of less than 910 hp and diesel engines powering electrical generators having an aggregate rated electrical power output of less than 611 kilowatts.

b. Diesel engines with an aggregate rated brake (output) horsepower of less than 1,675 hp and diesel engines powering electrical generators having an aggregate rated electrical power output of less than 1125 kilowatts.

c. Combustion gas turbines with an aggregate of less than 10,000,000 Btu per hour heat input (low heating value).

3. Engines that power mobile sources during periods of maintenance, repair or testing.

~~_____ 2~~ 4. Solvent metal cleaning operations: Any solvent metal cleaning operation with an uncontrolled emission rate with a potential to emit of not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~_____ 3~~ 5. Volatile organic compound storage and transfer operations:

~~_____ Any storage or transfer operation~~ involving petroleum liquids and other volatile organic compounds with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions; and any operation specified below:

a. Volatile organic compound transfer operations: involving

(1) Any tank of 2,000 gallons or less storage capacity; or

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(2) Any operation outside the volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

b. Volatile organic compound storage operations: involving

Any tank of 40,000 gallons or less storage capacity.

~~4~~ 6. Large appliance coating application systems:

~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~5~~ 7. Magnet wire coating application systems:

~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~6~~ 8. Automobile and light duty truck coating application systems:

~~a. Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~b. Any vehicle refinishing operation.~~

~~7~~ 9. Can coating application systems:

~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~8~~ 10. Metal coil coating application systems:

~~Any coating application system if it is within a plant that has an uncontrolled emission~~

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~~rate of stationary source if the potential to emit of the source is~~ not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~_____9~~ 11. Paper and fabric coating application ~~system:~~ systems

~~_____Any coating application system if it is within a plant that has an uncontrolled emission~~
~~rate of stationary source if the potential to emit of the source is~~ not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~_____10~~ 12. Vinyl coating application systems:

~~_____Any coating application system if it is within a plant that has an uncontrolled emission~~
~~rate of stationary source if the potential to emit of the source is~~ not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~_____11~~ 13. Metal furniture coating application systems:

~~_____Any coating application system if it is within a plant that has an uncontrolled emission~~
~~rate of stationary source if the potential to emit of the source is~~ not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~_____12~~ 14. Miscellaneous metal parts and products coating application systems:

~~_____a. Any coating application system if it is within a plant that has an uncontrolled~~
~~emission rate of stationary source if the potential to emit of the source is~~ not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.

~~15. _____b. Any Vehicle customizing coating operation~~ operations, if production is less than 20 vehicles per day.

~~16. _____c. Any Vehicle refinishing operation~~ operations.

~~17. _____d. Any Coating operations for the exterior of fully assembled aircraft or marine vessel~~
vessels exterior coating operation.

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~~13~~ 18. Flatwood paneling coating application systems:

~~Any coating application system if it is within in a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~14~~ 19. Graphic arts (printing processes):

~~Any printing process if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~15~~ 20. Petroleum liquid storage and transfer operations:

~~Any storage or transfer operation involving petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions (kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of 9 VAC 5-80-10 this article when used or stored at ambient temperatures); and any operation specified below:~~

a. ~~Bulk terminals~~ — Gasoline bulk loading operations:

~~Any operation at bulk terminals located~~ outside volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

b. Gasoline dispensing facilities.

~~Any gasoline dispensing facility.~~

c. ~~Bulk plants~~ — Gasoline bulk loading operations: at bulk plants:

(1) ~~Any facility~~ — With an expected daily throughput of less than 4,000 gallons:

or

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(2) ~~Any operation~~ Located outside volatile organic compound emissions

control areas designated in 9 VAC 5-20-206.

d. Account/tank trucks: however,

~~_____ No permit is required for account/tank trucks, but~~ permits issued for gasoline storage/transfer facilities should include a provision that all associated account/tank trucks meet the same requirements as those trucks serving existing facilities.

e. Petroleum liquid storage operations: involving:

(1) Any tank of 40,000 gallons or less storage capacity;

(2) Any tank of less than 420,000 gallons storage capacity for crude oil or condensate stored, processed or treated at a drilling and production facility prior to custody transfer; or

(3) Any tank storing waxy, heavy pour crude oil.

~~_____ 16~~ 21. Dry cleaning plants:

~~_____ Any petroleum dry cleaning plant~~ with a total manufacturers' rated solvent dryer capacity less than 84 pounds as determined by the applicable new source performance standard in 9 VAC 5-50-410.

~~_____ 17~~ 22. ~~Wood product manufacturing plants.~~

Any addition of, relocation of or change to a woodworking machine within a wood product manufacturing plant provided the system air movement capacity, expressed as the cubic feet per minute of air, and maximum control efficiency of the control system are not decreased.

~~_____ 18~~ 23. Wood sawmills.

~~_____ Any wood sawmill.~~

24. Exhaust flares at natural gas and coalbed methane extraction wells.

~~_____ C. New sources with no exemptions.~~

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~~Facilities as specified below shall not be exempt, regardless of size or emission rate, from the requirements of 9 VAC 5-80-10 as they pertain to construction, reconstruction or relocation.~~

- ~~1. Petroleum refineries.~~
- ~~2. Asphalt plants.~~
- ~~3. Chemical fertilizer manufacturing plants.~~
- ~~4. Kraft pulp mills.~~
- ~~5. Sand and gravel processing facilities.~~
- ~~6. Coal preparation plants.~~
- ~~7. Stone quarrying and processing facilities.~~
- ~~8. Portland cement plants.~~
- ~~9. Wood product manufacturing plants.~~
- ~~10. Secondary metal operations.~~
- ~~11. Lightweight aggregate process operations.~~
- ~~12. Feed manufacturing plants.~~
- ~~13. Incinerators.~~
- ~~14. Coke ovens.~~
- ~~15. Sulfuric acid production units.~~
- ~~16. Sulfur recovery operations.~~
- ~~17. Primary metal operations.~~
- ~~18. Nitric acid production units.~~
- ~~19. Concrete batching plants.~~
- ~~20. Pharmaceutical products manufacturing plants.~~
- ~~21. Rubber tire manufacturing plants.~~

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~~———— D C. ———— New source exemption levels by emission rate.~~

~~1. Facilities not covered by subsection B or C of this section~~ Stationary sources with ~~uncontrolled emission a potential to emit at~~ rates less than all of the ~~significant~~ emission rates specified below shall be exempt from the ~~requirements of 9 VAC 5-80-10~~ provisions of this article pertaining to construction, reconstruction or relocation.

~~———— EMISSION RATES.~~

<u>Pollutant</u>	<u>Emissions Rate</u>
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
<u>Particulate Matter</u>	<u>25 tpy</u>
Particulate Matter (PM ₁₀)	15 tpy
Volatile organic compounds	25 tpy
Lead	0.6 tpy
<u>Fluorides</u>	<u>3 tpy</u>
<u>Sulfuric Acid Mist</u>	<u>7 tpy</u>
<u>Hydrogen Sulfide (H₂S)</u>	<u>10 tpy</u>
<u>Total Reduced Sulfur</u>	
<u>(including H₂S)</u>	<u>10 tpy</u>
<u>Reduced Sulfur Compounds</u>	
<u>(including H₂S)</u>	<u>10 tpy</u>
<u>Municipal waste combustor organics</u>	
<u>(measured as total tetra-through</u>	

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octa-chlorinated dibenzo-p-dioxins

and dibenzofurans)

3.5×10^{-6} tpy

Municipal waste combustor metals

(measured as particulate matter)

15 tpy

Municipal waste combustor acid gases

(measured as the sum of SO₂ and HCl)

40 tpy

Municipal solid waste landfill emissions

(measured as nonmethane organic compounds) 50 tpy

2. Facilities exempted by subsection B of this section shall not be included in the determination of potential to emit of a stationary source for purposes of exempting sources under this subsection.

~~—— E D. — Modified source exemption levels by emission rate.~~

~~—— Facilities with increases in uncontrolled emission rates~~ Stationary sources with net emissions increases
less than all of the emission rates specified below shall be exempt from the ~~requirements of 9 VAC 5-80-10~~
provisions of this article pertaining to modification or reconstruction.

~~—— EMISSION RATES:~~

<u>Pollutant</u>	<u>Emissions Rate</u>
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	10 tpy
Sulfur Dioxide	10 tpy
<u>Particulate Matter</u>	<u>15 tpy</u>
Particulate matter PM ₁₀	10 tpy
Volatile organic compounds	10 tpy
Lead	0.6 tpy

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Fluorides 3 tpy

Sulfuric Acid Mist 7 tpy

Hydrogen Sulfide (H₂S) 10 tpy

Total Reduced Sulfur

(including H₂S) 10 tpy

Reduced Sulfur Compounds

(including H₂S) 10 tpy

Municipal waste combustor organics

(measured as total tetra-through

octa-chlorinated dibenzo-p-dioxins

and dibenzofurans) 3.5 x 10⁻⁶ tpy

Municipal waste combustor metals

(measured as particulate matter) 15 tpy

Municipal waste combustor acid gases

(measured as the sum of SO₂ and HCl) 40 tpy

Municipal solid waste landfill emissions

(measured as nonmethane organic compounds) 50 tpy

~~_____ F. _____ New source performance standards and national emission standards for hazardous air pollutants.~~

~~_____ Regardless of the provisions of subsections B, D and E of this section, affected facilities subject to Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50 or subject to Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60 shall not be exempt from the provisions of 9 VAC 5-80-10, with the exception of those facilities which would be subject only to recordkeeping or reporting requirements or both under Article 5 (9 VAC 5-50-400 et~~

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seq.) of 9 VAC 5 Chapter 50 or Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60.

~~_____ G. _____ Relocation of portable facilities.~~

~~_____ Regardless of the provisions of subsections B, C, D, E and F of this section, a permit will not be required for the relocation of a portable emissions unit for which a permit has been previously granted under this chapter provided that:~~

~~_____ 1. _____ The emissions of the unit at the new location would be temporary;~~

~~_____ 2. _____ The emissions from the unit would not exceed its allowable emissions;~~

~~_____ 3. _____ The unit would not undergo modification or reconstruction;~~

~~_____ 4. _____ The unit is suitable to the area in which it is to be located; and~~

~~_____ 5. _____ Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 15 days in advance of the proposed relocation unless a different time duration is previously approved by the board.~~

~~_____ H. _____ Requirements for exempted facilities.~~

~~_____ Any facility exempted from the provisions of 9 VAC 5-80-10 by subsection B of this section shall be subject to the provisions of any rule which would apply to the facility if it were an existing source unless specifically exempted by that rule.~~

~~_____ I E. _____ Exemption levels for sources of toxic pollutants; not subject to the federal hazardous air pollutant new source review program shall be as follows:~~

~~1. _____ Facilities Stationary sources with an a net emission increase in the uncontrolled emission rate of a toxic pollutant equal to or less than the exempt emission rate calculated using the exemption formulas for the applicable TLV7 in subdivision 4 of this ~~section~~ subsection shall be exempt from the requirements of 9 VAC 5-80-10 provisions of this article pertaining to modification, provided the net emissions~~

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increase in the ~~uncontrolled emission rate~~ of the pollutant does not exceed 22.8 pounds per hour or 100 tons per year.

2. ~~Facilities~~ Stationary sources with an ~~uncontrolled emission rate~~ a potential to emit of a toxic pollutant equal to or less than the exempt emission rate calculated using the exemption formulas for the applicable TLV7 in subdivision 4 of this ~~section~~ subsection shall be exempt from the ~~requirements of 9 VAC 5-80-10~~ provisions of this article, pertaining to construction, reconstruction or relocation, provided the ~~uncontrolled emission rate~~ potential to emit of the pollutant does not exceed 22.8 pounds per hour or 100 tons per year.

3. If more than one exemption formula applies to a toxic pollutant emitted by a ~~facility~~ stationary source, the ~~uncontrolled~~ emission rate of that pollutant shall be equal to or less than both applicable exemption formulas in order for the source to be exempt for that pollutant. The exemption formulas apply on an individual basis to each toxic pollutant for which a TLV7 has been established.

4. ~~Exemption formulas:~~ The formulas for making toxic pollutant exemption determinations shall be as follows:

- a. For toxic pollutants with a TLV-C7, the following exemption formula applies:

Exempt Emission Rate (pounds per hour) =

$$\text{TLV-C7 (mg/m}^3\text{)} \times 0.033$$

- b. For toxic pollutants with both a TLV-STEL7 and a TLV-TWA7, the following

exemption formulas apply:

Exempt Emission Rate (pounds per hour) =

$$\text{TLV-STEL7 (mg/m}^3\text{)} \times 0.033$$

Exempt Emission Rate (tons per year) =

$$\text{TLV-TWA7 (mg/m}^3\text{)} \times 0.145$$

- c. For toxic pollutants with only a TLV-TWA7, the following exemption formulas

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apply:

Exempt Emission Rate (pounds per hour) =

$TLV-TWA_7 \text{ (mg/m}^3\text{)} \times 0.066$

Exempt Emission Rate (tons per year) =

$TLV-TWA_7 \text{ (mg/m}^3\text{)} \times 0.145$

5. Exemption from the requirements of ~~9 VAC 5-80-10~~ this article for any facility stationary source ~~which has an uncontrolled emission rate~~ of any toxic pollutant without a TLV_7 shall be determined by the board using available health effects information.

6. The exemption determination shall be made by the board using information submitted by the owner at the request of the board as set out in 9 VAC 5-50-200.

~~7. Facilities as specified below shall not be exempt, regardless of size or emission rate, from the requirements of 9 VAC 5-80-10 as they pertain to modification, construction, reconstruction or relocation.~~

~~a. Incinerators, unless the incinerator is used exclusively as air pollution control equipment.~~

~~b. Ethylene oxide sterilizers.~~

~~c. Boilers or industrial furnaces burning hazardous waste fuel for energy recovery or destruction, or processing for materials recovery or as an ingredient.~~

~~For the purposes of this subdivision, hazardous waste fuel means (i) hazardous waste that is burned for energy recovery or (ii) fuel produced from hazardous waste by processing, blending or other treatment (Hazardous Waste Management Regulations, 9 VAC 20-60-10 et seq.). Hazardous waste means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness, or (ii) pose a substantial present or potential hazard to human health or the~~

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~~environment when improperly treated, stored, transported, disposed of, or otherwise managed (> 10.1-1400 of~~
~~the Virginia Waste Management Act). This subdivision shall not apply to boilers or industrial furnaces burning~~
~~used oil, which is defined as any oil that has been refined from crude oil, used, and as a result of such use, is~~
~~contaminated by physical or chemical impurities (Hazardous Waste Management Regulations, 9 VAC 20-60-10~~
~~et seq.).~~

F. Any source subject to the federal hazardous air pollutant new source review program shall be
exempt from the provisions of this article if specifically exempted from that program by 40 CFR Part 61 or 63.

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9 VAC 5 CHAPTER 50.

NEW AND MODIFIED STATIONARY SOURCES.

PART II.

Emission Standards.

ARTICLE 4.

Standards of Performance For Stationary Sources (Rule 5-4).

9 VAC 5-50-240. Applicability and designation of affected facility.

A. The affected facilities in stationary sources to which the provisions of this article apply are facilities that emit or cause air pollution.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

9 VAC 5-50-250. Definitions.

A. For the purpose of ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Best available control technology" means a standard of performance (including a visible emission standard) based on the maximum degree of emission reduction for any pollutant which would be emitted from any proposed stationary source which the board, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source through the application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of

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best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard in Article 5 (9 VAC 5-50-400 et seq.) of this part or Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5 Chapter 60. If the board determines that technological or economic limitations on the application of measurement methodology to particular emissions unit would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead of requiring the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results. In determining best available control technology for stationary sources subject to Article 6 (9 VAC 5-80-1100 et seq.) of Part II of 9 VAC 5 Chapter 80, consideration shall be given to the nature and amount of the new emissions, emission control efficiencies achieved in the industry for the source type, and the cost-effectiveness of the incremental emission reduction achieved.

"Lowest achievable emission rate" means for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner of the proposed stationary source demonstrates that such limitations are not achievable; or
2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

9 VAC 5-50-260. Standard for stationary sources.

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A. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply best available control technology for each regulated pollutant that it would have the potential to emit in amounts equal to or greater than the levels in 9 VAC 5-80-1320 C.

C. A modification shall apply best available control technology for each regulated pollutant for which it would result in a net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur in amounts equal to or greater than the levels in 9 VAC 5-80-1320 D as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

9 VAC 5-50-270. Standard for major stationary sources (nonattainment areas).

A. For major stationary sources located in nonattainment areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from the lowest achievable emission rate, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply lowest achievable emission rate for each qualifying pollutant that it would emit.

C. A major modification shall apply the lowest achievable emission rate to each new or modified emissions unit which would increase the emissions of a qualifying pollutant.

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D. In the case of a reconstruction, the determination of lowest achievable emission rate shall take into account any economic or technical limitations on compliance with applicable standards of performance (as specified in Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50) which are inherent in the proposed replacements.

E. For phased construction projects, the determination of lowest achievable emission rate shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of lowest achievable emission rate for the source.

9 VAC 5-50-280. Standard for major stationary sources (prevention of significant deterioration areas).

A. For major stationary sources located in prevention of significant deterioration areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act that it would have the potential to emit in significant amounts.

C. A major modification shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the

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applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

9 VAC 5-50-290. Standard for visible emissions.

The provisions of Article 1 (9 VAC 5-50-60 et seq.) of 9 VAC 5 Chapter 50 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 5-1) apply.

9 VAC 5-50-300. Standard for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-50-60 et seq.) of 9 VAC 5 Chapter 50 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 5-1) apply.

9 VAC 5-50-310. Standard for odor.

The provisions of Article 2 (9 VAC 5-50-130 et seq.) of 9 VAC 5 Chapter 50 (Emission Standards for Odor, Rule 5-2) apply.

9 VAC 5-50-320. Standard for toxic pollutants.

The provisions of Article 3 (9 VAC 5-50-160 et seq.) of 9 VAC 5 Chapter 50 (Emission Standards for Toxic Pollutants, Rule 5-3) apply.

9 VAC 5-50-330. Compliance.

A. The provisions of 9 VAC 5-50-20 (Compliance) apply.

B. Nothing in this article is intended to relieve any owner or other person from complying with any applicable standards or requirements contained in this part or other parts.

9 VAC 5-50-340. Test methods and procedures.

The provisions of 9 VAC 5-50-30 (Emission Testing) apply.

9 VAC 5-50-350. Monitoring.

The provisions of 9 VAC 5-50-40 (Monitoring) apply.

9 VAC 5-50-360. Notification, records and reporting.

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The provisions of 9 VAC 5-50-50 (Notification, Records and Reporting) apply.

9 VAC 5-50-370. Registration.

The provisions of 9 VAC 5-20-160 (Registration) apply.

9 VAC 5-50-380. Facility and control equipment maintenance or malfunction.

The provisions of 9 VAC 5-20-180 (Facility and Control Equipment Maintenance or Malfunction) apply.

9 VAC 5-50-390. Permits.

A permit may be required prior to beginning any of the activities specified below ~~and~~ if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) ~~may~~ apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.